

NOTICE OF ALLOWANCE

Examiner's Amendment

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Arthur Garrett on 9/1/2010.

The application has been amended as follows:

2. Amend claim 14 as follows:
 - a. line 4, after the phrase "thermoplastic resin composition" delete the phrase "consisting essentially of" and insert the word - - comprising - -
 - b. line 16, after the phrase "is 85/15 to 15/85;" delete the word "and"
 - c. line 18, after the phrase "the unvulcanized rubber (B)" delete "**, and**" and replace it with the phrase - - ; **and the unvulcanized rubber (B) of the spacer is not vulcanized, and - -**.
3. In claim 20, line 2, after the word "claim" delete the number "8" and replace it with the number - - 14 - -.

Election/Restrictions

4. Claims 14-19 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 20 and 21, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, claims 20 and 21 are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on 12/31/2009 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Reasons for Allowance

5. The following is an examiner's statement of reasons for allowance:

Claims 14-22 are allowable because the closest prior art, represented by the Baratuci and Koizumi references, fails to anticipate or render obvious an insulated glass unit having a spacer made of the claimed thermoplastic resin composition.

Regarding the Baratuci reference, Baratuci is drawn to an insulated glass unit comprising a spacer element. However, Baratuci fails to teach either one of the moisture vapor transmission

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rate of the thermoplastic component or the ratio of the claimed thermoplastic component to rubber. Baratuci discloses the spacer (core material) can include a thermoplastic component comprising high or low density polyethylene foam (col. 5, ln. 50-54). Baratuci does not teach or suggest any ratio or amount of foam in the spacer (core material). Furthermore, Baratuci fails to indicate a moisture vapor transmission rate of the foam. As a result, Baratuci fails to anticipate or render obvious the claimed insulated glass unit.

Regarding the Koizumi reference, Koizumi discloses an insulated glass unit comprising a spacer made of a composition comprising thermoplastic resin, vulcanized rubber, and moisture absorbent. Koizumi discloses the rubber component is vulcanized (col. 4, ln. 49-50).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to WALTER MOORE whose telephone number is (571) 270-7372. The examiner can normally be reached on Monday-Thursday 9:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on (571) 272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WM/

Walter Moore, Examiner AU 1783
9/1/2010

/David R. Sample/

Supervisory Patent Examiner, Art Unit 1783